

COUNTY OF SAN DIEGO

MAP MODIFICATION PROCEDURE

The following is the procedure for modifying recorded Final and Parcel Maps per Section 66472.1 of the Government Code and Sections 81.513 and 81.809 of the Subdivision Ordinance.

I. Applicant shall submit to the **Department of Public Works, Land Development Division:**

- A. The **original** and **2 copies** of DPW "Application for Map Modification" (B1, B2, B3);
- B. The **original** and **2 copies** of Department of Planning and Land Use (DPLU) Form 346 "Discretionary Project Application" (copy front page only)(B4);
- C. The **original** and **2 copies** of a letter to DPW outlining the problem and the modification desired;
- D. **3 copies** of a map showing the proposed modifications to the Recorded Final or Parcel Map, if appropriate;
- E. **A current Preliminary Title Report for the entire area divided by the subdivision or parcel map;**
- F. **2 checks** to the County of San Diego in the amounts specified on the application, one to be deposited with Public Works and one to be forwarded to Planning and Land Use by Land Development. (see B3 for current deposit amounts)

Cases taken in by DPW under the Recorded Map Number as either FMA or PMA.

II. The Departments of Public Works, Planning and Land Use, and Environmental Health (if applicable) will make a preliminary investigation as to whether the below findings can be made:

- A. Required by Section 66472.1 of the Subdivision Map Act for a change to the recorded map:

1. That there are changes in circumstances which make any or all the conditions of such a map no longer appropriate or necessary; and
2. That the modifications do not impose any additional burden on the present fee owner(s) of the property; and
3. That modifications do not alter any right, title, or interest in the real property reflected on the map; and
4. That the map as modified conforms to the provisions of Section 66474.

III. The Department of Public Works will notify the applicant by letter regarding the following:

- A. Whether it preliminarily appears that the above findings can be made;
- B. The amount of deposit necessary for Public Works to complete the process. This includes, but is not limited to:
 1. Preparing documentation for the public hearing.
 2. Providing public notice of the public hearing.
 3. Holding the public hearing.
 4. Checking the infringements to public and private easements.
 5. Department of Environmental Health approval (if applicable).
- C. Requesting that a title guarantee insuring the County as to status of title be furnished to Public Works prior to decision (if applicable).
- D. Requesting that the following items be submitted to the Department of Public Works.
 1. Public Hearing Information and Materials:
 - a) Public Notice package (one set of addressed stamped envelopes, an extra set of gummed labels, and a list of property owners within 300 feet). A minimum of 20 owners must be notified.

- b) Appropriate vicinity map showing property and proposed change for inclusion in the Public Notice mailing.
 - 2. Additional requirements (i.e., Fire Protection District letter if District's conditions are under review, Initial Study or EIR if determined not adequately covered by original document).
- IV. If it is preliminarily determined that the requested modifications can be made and the applicant wishes to proceed, the applicant will assemble all materials listed in the letter described in paragraph III and submit them to the Department of Public Works as stated in said letter.
 - A. The Department of Public Works will:
 - 1. Review all final documentation.
 - 2. Set hearing date.
 - 3. Prepare Preliminary Notice/Resolution.
 - 4. Prepare information for public notice (property owner letter and newspaper advertising).
 - 5. Hold hearing. (15 days minimum after advertising).
 - 6. Make final decision.
 - 7. Prepare Final Notice/Resolution.
 - 8. Respond to appeal if necessary (appeal must be made within 10 days of final decision).
 - B. If the application is approved, the Department of Public Works will review the Amended Map or Certificate of Correction and return it to the engineer or surveyor who executed the document with an explanation of required corrections if the document is not ready for filing.
- V. When all conditions of approval are satisfied, the Department of Public Works will file the Amended Map or Certificate of Correction, together with any related documentation, with the County Recorder.



County of San Diego

DIRECTOR
(858) 694-2233
FAX: (858) 268-0461
LOCATION CODE S50

DEPARTMENT OF PUBLIC WORKS
5555 OVERLAND AVE, SAN DIEGO, CALIFORNIA 92123-1295

COUNTY ENGINEERING
COUNTY AIRPORTS
COUNTY ROAD COMMISSIONER
TRANSIT SERVICES
COUNTY SURVEYOR
FLOOD CONTROL
WASTEWATER MANAGEMENT

APPLICATION FOR MAP MODIFICATION

Project No. PM/FM _____ (TPM/TM _____)

APPLICANT – Please complete the following:

Applicant Name _____ Phone (____) _____
(Last, First, Middle Initial or Firm Name)

Applicant Address _____

City _____ State _____ Zip _____

Tax I.D. or Social Security No. _____

Engineer Name _____ Phone (____) _____
(Last, First, Middle Initial or Firm Name)

Engineer Address _____

City _____ State _____ Zip _____

Owner Name _____ Phone (____) _____
(Last, First, Middle Initial or Firm Name)

Owner Address _____

City _____ State _____ Zip _____

Tax I.D. or Social Security No. _____

I hereby request the Department of Public Works to accept this application for modification of Parcel Map/Final Map No. _____ for reasons outlined in the attached letter dated _____.

Section 66472.1 of the Subdivision Map Act requires that the following four findings be made by the County prior to approval of a map modification. Please explain your reasoning as to how the required findings can be made for your proposed map modification after each finding listed below.

Finding No. 1: There are changes in circumstances, subsequent to the recording of the map, which make any or all of the conditions of such map no longer appropriate or necessary.

(Explanation):

Finding No. 2: That the modifications do not impose any additional burden on the present fee owner(s) of the property.

(Explanation):

Finding No. 3: That the modifications do not alter any right, title, or interest in the real property reflected on the recorded map.

(Explanation):

Finding No. 4: That the map as modified conforms to the provisions of Section 66474 of the Subdivision Map Act.

(Explanation):

The first phase of the Map Modification process is to determine if the County can make and substantiate the above findings.

The following material is presented to the Department of Public Works, Land Development Counter:

- A. The **original** and **2 copies** of DPW "Application for Map Modification";
- B. The **original** and **2 copies** of Department of Planning and Land Use (DPLU) Form 346 "Discretionary Project Application" (copy front page only);
- C. The **original** and **2 copies** of a letter to DPW outlining the problem and the modification desired;
- D. **3 copies** of a map showing the proposed modifications to the Recorded Final or Parcel Map;
- E. A current Preliminary Title Report for the **entire** area divided by the Subdivision Map or Parcel Map;
- F. **1 check** for **\$500**, payable to County of San Diego, as an initial deposit for the Department of Public Works.
- G. **1 check** for **\$260**, payable to County of San Diego, as a fee for the Department of Planning and Land Use.

I understand that if the findings can be made, the second phase may begin. I will be notified by letter regarding the procedure and how much additional deposit is needed to continue the project. No further work will be performed until the necessary deposit is received by Land Development.

Signature of Owner(s) of all Lots/Parcels
or Authorized Agent(s)

Date



COUNTY OF SAN DIEGO
DEPARTMENT OF PLANNING AND LAND USE
1001 HUNTER ROAD, SUITE 6 SAN DIEGO, CA 92109-1000
TOLL FREE NUMBER: (888) 267-8770

DISCRETIONARY PROJECT APPLICATION

Case Numbers	DPLU	DPW	Health	Other
_____	F/D	F/D	F/D	F/D
_____	F/D	F/D	F/D	F/D
_____	F/D	F/D	F/D	F/D
ENV# _____				
WE# _____	F/D			
WN # _____	F/D			
DEPARTMENT USE ONLY				
TOTALS	_____	_____	_____	_____
	DPLU	DPW	Health and Others	Total

Owner Name _____ Phone (____) _____

Address _____

City _____ State _____ Zip _____

Applicant Name _____ Phone (____) _____

(If different from owner and/or party financially responsible for project on DPLU #126.)

Address _____

City _____ State _____ Zip _____

Engineer Name _____ Phone (____) _____

Address _____

City _____ State _____ Zip _____

Point of Contact _____ Phone (____) _____

Project Name _____

Address _____

Assessor's Parcel No _____

Have you had a pre-application conference? YES ☐ NO ☐ If yes, Planner's name: _____

I am able and intend to proceed with actual construction work and/or division of land in accordance with plans submitted herein within _____ months after approval. **ATTACH A LETTER OF AUTHORIZATION FOR AGENT (IF APPLICABLE).**

Signature of owner or Authorized Agent

Date

Print or type Signator's Name

DPLU# 346 (4/00)

GENERAL INFORMATION ON THE MAP MODIFICATION OF FINAL MAPS AND PARCEL MAPS

State Law:

Government Code, Section 66472.1 was enacted in 1981, to allow changes on recorded land division maps, for reasons other than errors or omissions, as defined in Government Code Section 66469.

Recorded maps may be modified by either a certificate of correction or an amending map, if the local agency finds that:

- Ø there are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary, and
- Ø the modifications do not impose any additional burden on the present fee owner(s) of the property, and
- Ø the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and
- Ø the map as modified conforms to the provisions of Section 66474.

Interpretation of Findings:

Two of the above findings usually create problems for most of the applicants; "Changes in Circumstances" and "Altering Right, Title or Interest".

Changes in Circumstances commonly are:

County approved boundary line adjustments, which result in certain road alignments becoming either unusable or no longer necessary;

Owner acquires access to property over a different access easement, which is of a minimum required width and built to County standards prior to time of application;

Since a new owner acquired the property, the costs for undergrounding existing utilities, have increased to the point that it makes the sale of the individual lots prohibitive;

Gnatcatcher listing requiring a habitat loss permit and granting of additional open space easements, relocating onsite roads and readjusting interior lot lines;

Any other change initiated by the County, which will directly affect the required improvements of the subdivision.

Altering Right, Title and Interest:

The modification itself must not alter any right, title or interest. Refer to the section below entitled County Counsel Opinion, in this report.

General Procedures:

- Ø Application is filed with Land Development and reviewed by the Departments of Public Works (DPW), Planning and Land Use (DPLU), and Environmental Health (DEH).
- Ø Once DPW makes the above findings, a public hearing is held. Notices are sent out to surrounding property owners, in the same manner as for land division hearings in PERB.
- Ø The hearing is held at the DPW Department level. The hearing officer is generally the Deputy Director in the Land Development Division.
- Ø If DPW does not support the modification, the applicant may still request a hearing and appeal the hearing officer's decision to the Board of Supervisors. **This is the only way the applicant may be heard by the Board.**
- Ø Any appeal to the hearing officer's decision, may only be made by the applicant, a County officer or any person who opposed the decision either in writing or in person at the public hearing (Section 81.513, County Code).

According to County Counsel, **the written opposition must be presented either prior to or during the hearing.** Any person whose letter is received after the close of the hearing will not qualify to appeal the decision.

The person who appeals the decision shall pay the deposit required to cover the actual costs of processing (Section 81.205d, County Code).

County Counsel Opinion:

In a recent Counsel opinion, it was concluded "the County is without authority to approve a modification which alters a right, title or interest in the subject property, regardless of the apparent consent by the holder(s) of that right, title or interest".

The modification may proceed if the applicant first eliminates "the right, title or interest through whatever legal vehicle (such as a quitclaim deed) is available to eliminate the particular interest," and assuming the other three findings are made.

According to Counsel, the quitclaim of this right, title or interest must be completed prior to the time that findings are made, (at the modification hearing). Changing a road alignment is a "private matter of negotiation between two property owners". The map modification is a "process intended to be used for minor changes, not those that affect property rights".

Modification Examples:

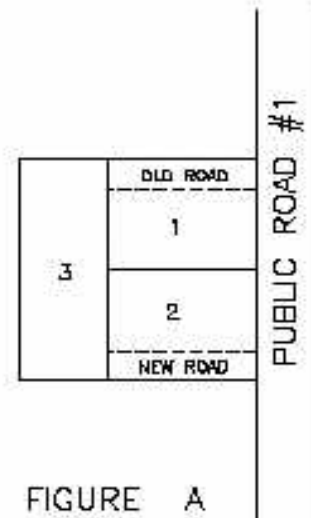
The following two drawings are typical of the modification requests received by DPW.

Figure "A" represents a recorded parcel map. The property fronts on a public road. The access to parcel 3 is by the "Old Road", which is shown as the access on the recorded parcel map.

First Scenario

Each parcel is owned by a different person. The owner of parcel No. 3 wishes to build the access road in the location identified here as "New Road". **Before an application to request modification is filed**, the owner of parcel No. 3 must have first acquired an easement over the "New Road", constructed the "New Road" and quitclaimed any rights over the "Old Road".

Before any findings are made, a superseding covenant must record, signed by all owners of the parcel map. This will transfer the obligation from constructing the "Old Road" to the "New Road".



Second Scenario

All parcels are owned by the same person and for whatever reason, the owner cannot build the road over the old alignment. In this case a superseding covenant must be recorded **prior to the hearing date**, (when the findings are made).

In both of the above scenarios, the modification itself would not change any right, title or interest, because as in the first scenario, the title would have been changed and the road built ahead of time, and in both scenarios, before any findings were made, a superseding covenant would be recorded, changing the obligation to build the "New Road" instead of the "Old Road".

Figure "B" also represents a recorded parcel map. Access to all four parcels is by a private road easement leaving Public Road #2. A new Tentative Map was filed creating a major subdivision over parcels No. 2 & No. 3. At this point, the private access road from Public Road #2, to parcels No. 1 & No. 4 has not been constructed. The recorded covenant over the entire property still exists. Parcels No. 1 & No. 4 each have a different owner. Parcels No. 2 & No. 3 together are owned by a third party.

First Scenario

If any of the owners wished to pull a building permit before the Final Map recorded, the private road must first be constructed according to the original covenant. The major subdivision improvement requirements may further improve the road to parcel No. 1.

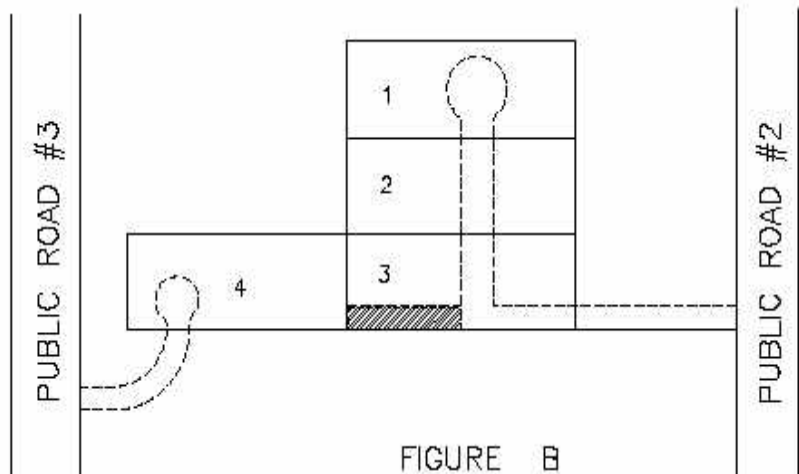
After the Final Map records and security posted for the improvements, parcels No. 2 & No. 3 will be released from the covenant requirements, since they are redivided.

If parcels No. 1 & No. 4 wish to pull building permits, they still would be required to construct the private road according to the original covenant, unless it was previously constructed as a result of the major subdivision.

Second Scenario

The owner of parcel No. 4 acquired access over a private road leaving Public Road #3 and wishes to be released from the original covenant requirements.

Before the application for modification is accepted over the counter, the owner of parcel No. 4 must have first acquired the easement from Public Road #3, constructed the road from Public Road #3, to the private standards as defined in the existing covenant and quitclaimed the private easement from Public Road #2.



Before any findings are made, a superseding covenant must record, signed by all owners of the parcel map. The covenant would not only remove parcel No. 4 from building the original road requirements but it would also eliminate the requirement for the other three parcels to build the road adjacent to the east line of parcel No. 4 (shaded).

Both of the above scenarios can be processed with one modification, for everything during the same time period.